THE REPORTER

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Justice Rutledge Dies; Tom Clark Succeeds Murphy

Supreme Court Justice Wiley Rutledge's death removes from the bench the second most liberal of the Justices who made the recent Court. A table of Constitutional decisions reveals that Murphy and Rutledge were most frequently favorable to the Constitutional right. Rutledge was a Unitarian.

It has been suggested that Senator J. Howard McGrath, former chairman of the Democratic National Committee, and successor to Tom Clark as U. S. Attorney General, will be considered for the vacancy on the Court.

In view of the fact he is a Catholic, following in the footsteps of the late Justice Murphy in becoming Attorney General, it is hoped that he will take the late Justice as a good example to be emulated.

Church groups have come to know McGrath through his support for liberal legislation for displaced persons.

Attorney General Tom Clark has been appointed to replace the late Justice Murphy on the Supreme Court.

There is no way to predict what Clark's attitude on the bench will be, but his increasingly tolerant attitude towards CO's while he was in the Justice Department gives rise to the hope that he will be favorable to objector cases.

Both the *Gara* and the *Cohnstaedt* cases will come before the new Court.

AEC Views Religion as Loyalty Safeguard

The U. S. Atomic Energy Commission has listed conscientious objections among the things that might make a man a risk to national security "when such objections cannot be clearly shown to be due to religious convictions." However, religious objectors are not treated differently from any other non-veteran.

Even where the objections are not shown to be religious, they will not absolutely bar an individual from work with the Commission; and it is probably only in connection with other disqualifying factors that political objections would be considered a bar.

The Atomic Energy Commission's personnel standards do not give any definition of a religious objector. Under the 1940 Selective Service Act, courts called a man religious even if he did not believe in a Supreme Being. Under the 1948 Selective Service Act, religious training and belief requires a belief in a Supreme Being. Whether the Atomic Energy Commission will use the first or second definition of "religious", or whether they will use the first with regard to the 1940 group, and the second with regard to the 1948 group, has never been decided. Objection has not been a controlling factor in any case.

Several objectors, it was reported, have been cleared for work with the Commission.

Greece Suspends Execution of JWs

Possibly the lives of five or more Jehovah's witnesses who were sentenced to death by the Greek government for refusing to bear arms have been saved from execution.

Following the reports of the execution of John Tsoukaris and George Orphanides by the Greek government for refusing to bear arms, officials in the American Embassy in Athens discussed the matter with the Greek Foreign Office, drawing attention to the customary treatment given conscientious objectors under Anglo-American statutes. The State Department says that there is reason to believe that in dealing with cases of this nature, the Greek government will henceforth exercise as much leniency as is consistent with its efforts to restore internal security.

The State Department reported that the sentence of one Jehovah's witness had been commuted to life imprisonment, and the others were pending before the Council of Pardons. The absence of news concerning any other executions may indicate that a new policy is in effect.

NSB also asked the Greek Orthodox Church to voice its protest. However, the Church temporized, insisting that some motive such as communism was behind the executions. No government has suggested that communist activity was involved in the charges against the Jehovah's witnesses.

At a time when Americans and the U. S. government are concerned about the treatment of religious groups in communist-dominated countries it is proper that they also be concerned over this more extreme persecution of religion by an American-satelite government.

IMPRISONED SWISS PACIFISTS KEEP CIVIL RIGHTS

Under a new amendment to the Code Penal Militaire, Swiss conscientious objectors are protected from loss of civil rights because of any criminal verdict, although they can still be imprisoned, according to the interpretation of the Swiss legation in Washington.

Otto Siegfried, of the Swiss National Peace Council, was asked by the Appellate Military Tribunal of Switzerland to write something on the present situation in the United States because as the chairman of the Tribunal said, "We in Switzerland take more and more as an example what comes from the States". Therefore Siegfried wrote to the NSB for information.

Shortly after NSB made its suggestion, the Swiss added to their Code Penal Militaire the following similar sentence:

"La privation des droits civiques ne sera pas prononcee a l'egard de celui qui aura agi sou. l'empire d'un grave conflit de conscience".

Translated into English this means "He who acted through the influence of grave moral conflict will not be deprived of his civil rights."

Swiss judges impose sentences in two parts, the first naming the period of imprisonment, and the second naming the term in which civil rights are lost. This law, we are told, affects only the second part.

Even though it is weaker than our suggestion, it is a beginning recognition of the claims of conscience. Perhaps Otto Siegfried can make something larger out of it.

We are reminded of the influence the Dutch had in Switzerland in the 17th century. Dr. Ernest Correll of American University has prepared an article, intended for the Mennonite Quarterly Review, which will show the series of diplomatic interventions of the Dutch Government representing the Dutch Mennonites to the Swiss Government. In the last part of the 17th century a number of Mennonite groups in the Netherlands were united by what they called in translation the "Needs Abroad." They organized what Dr. Correll terms an anticipation of the Mennonite Central Committee in America, which worked for the benefit of the Mennonites in Switzerland, as well as of other religious groups. They sought to stop the sale of Anabaptists as galley slaves, and their enforced deportation to the Carolinas.

The cooperation of the many church groups backing the NSB to meet the needs of 1949 may accomplish something equally worthwhile for CO's abroad.

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ACLU and NSB Seek C. O.—U. S. Accord

Mary Alice Baldinger, who is the Washington representative for Roger Baldwin and the American Civil Liberties Union, phoned NSB a few months ago in order to find a local Washington person who could represent ACLU on a four-point program. The four-point program included—(1) dropping prosecutions against CO's; (2) recommendation of probation by the Department of Justice in all Selective Service cases, if they were not dropped; (3) paroles for those in prison, in order to put them on a level with men who are not prosecuted; and (4) giving IV-E to Jehovah's witnesses whether they request the classification or not.

NSB was able to offer a person who has been doing its work; and it worked in conjunction with Roger on these points. The only concrete result to date was the Attorney General's Circular No. 4063, Supplement No. 4, which points out the power of any law enforcement officer to register a violator under Selective Service Regulation 642.31, and the consequent power of United States Attorneys to act as registrars.

NSB is pleased with the results, but the procedure is not flexible enough in that it makes no provision for people who have registered and who refuse to be inducted; and in fact the circular was not applied in the cases of the nine non-registrants recently convicted in Indianapolis.

We, therefore, believe that where the prosecution has not been disposed of on the local level, it should be referred to Washington for central investigation and postponement before any actual indictment is brought, as proposed by Sen. Humphrey of Minnesota in his letter to the U. S. Attorney General which was printed in the May Reporter.

Roger and NSB are still working in harness on this, as well as on the matter of paroles mentioned elsewhere in this issue.

Positions Wanted for Objectors

The Reporter plans to print employment notices for peacemakers when they are submitted to us. Employers who wish to contact either of the two ex-CPS assignees described below should write to The Reporter.

Manchester College graduate, Brethren, now completing masters from University of Colorado, desires editorial, teaching, or social science position near to a recognized graduate school of economics.

CARE May Get Wages Withheld by Gov't.

Rep. Walter Judd (R-Minn.) is preparing to get action on his bill authorizing an appropriation to CARE of money equal to the wages which CPS assignees received from private employers and turned over to the United States under a ruling of the Comptroller General.

A total of $1,327,641.76 was turned over to the government from the wages of assignees doing dairy and emergency farm work and herd testing. Most of the money was deposited in a special account during the war which has since been covered into the general receipts of the Treasury and all of it is claimed by the Treasury as belonging to the United States.

The bill introduced by Rep. Judd authorizes the Secretary of State to make contributions from the appropriation to Cooperative for American Remittances to Europe, Inc., for use in the provision of technical, scientific, and professional publications and educational and scientific equipment for libraries and institutions of learning abroad.

The list of books to be sent has been prepared by a committee headed by Dr. Luther Evans, Librarian of the Library of Congress, with the assistance of representatives of the American Library Association, the New York Public Library and the Yale University Medical School.

Instructor in sociology and anthropology, near Ph.D., from University of Pennsylvania, 2 years teaching experience at American University, Washington, D. C., single, age 32.

OLDEST PACIFIST

The REPORTER is looking for the oldest living American conscientious objector; if possible, one recognized in the Civil War.

We would like to nominate him for the National Commander of the last encampment of both the Union and Confederate Armies.

The Union Army had its last encampment. this year.

It was seriously suggested that the remaining veterans, numbering about nine, hold this encampment together with the Confederates. The boys in blue protested, however, against giving in to the rebels.

While COs were only recognized in the Civil War under the bounty system by which they bought substitutes, there were nonetheless bona fide CO's in American life at that time.

Any CO's of more recent date who would like to make a bid for the title may also apply. Write us about the older CO's you know.

What Would You Do?

A Brethren Elder goes to the local board of one of the members of his church on a night when he knows the board is meeting in order that he may make a statement on behalf of the member, who has asked for IV-E. The clerk tells the Elder that the teachings of the church are not material to the classification of a member and that the views of the man himself are all that count. What would you do?

Answer on Page 4

IS GOD AN ALIEN?

"Behold, I stand at the door and knock: if any man hear my voice and open the door, I will come in to him, and will sup with him, and he with me."—Rev. 3:20.

By WILLIAM E. ROSTRON, JR., A.B., LL.B. (Harvard School of Law)

The Kansas Supreme Court on June 11, 1949, in *Cohnstaedt v. Immigration and Naturalization Service* decided that it does not have to grant citizenship to an alien who is not willing to serve in the armed forces.

This decision is the first departure from the United States Supreme Court decision in *Girouard v. United States*. The *Girouard* case held that an alien cannot be excluded from citizenship because he is a conscientious objector. The language of the Court in that case would seem to cover all conscientious objectors; but Girouard himself was a Seventh-Day Adventist IA-O. The *Cohnstaedt* court has differentiated its case from the *Girouard* case on that ground and decided that the *Girouard* decision does not apply to an objector who is not willing to do at least non-combatant service in the armed forces.

A Federal Court for Nebraska earlier this year decided in the case of Jacob Wiebe that the Girouard case does include more than the IA-O objector. Therefore there is now a split of authority on the question of whether the IV-E objector comes within the liberal Girouard decision.

The procedure by which an alien is admitted to citizenship may help us prognosticate the future in naturalization of COs. A naturalization examiner for the Department of Justice makes a recommendation on an alien's application, and then the court makes the final decision. In some places, State courts as well as Federal courts are empowered to pass on the application. That is how the Kansas Court got the *Cohnstaedt* case. The Justice Department says that there is no uniform policy for naturalization examiners to make an adverse recommendation on applicants with objections to war, and it is unlikley that the *Cohnstaedt* case will result in such a policy. It is also possible that a decision of the Kansas Supreme Court will not carry great weight in other jurisdictions, or in Federal courts. Therefore, there is no clear basis for predicting uniform treatment for COs seeking to become citizens.

The *Cohnstaedt* case is being taken to the Supreme Court, however, and the decision there may result in establishing a pattern.

Our readers may be interested in evaluating the decision by something other than contemporary legal standards. History provides the key colors and the scale by which we can measure the *Cohnstaedt* case.

Ancient Peoples Enslave Foreigners

When the ancient Egyptians and Babylonians conquered other peoples, they did not know how to retain their conquered cities. They tried to hold them by transporting the populations into slavery. The story of Israel in Egypt and in Babylon is a well known episode from that period of history.

Later the Greeks tried another method. Alexander the Great gave the conquered cities to his victorious generals to govern, hoping to hold his empire together without slavery. That was how Cleopatra's ancestors got Egypt. It did not work; when Alexander died his generals disagreed and divided his empire.

Throughout these early centuries, citizenship was an hereditary right seldom given to aliens and strangers. Euripedes, a Greek dramatist, wrote *Medea*, the story of an oriental woman who married a Greek, but who, according to Greek custom, remained an alien. In the play Jason, her husband, leaves her and marries the daughter of the local ruler to advance himself. The oriental Medea, unable to return to her own people because she is disowned, takes a bloody revenge. She murders Jason's new bride, his new father-in-law, and her own two children, in order to leave Jason without a friend.

Worship of Local Gods Keeps Citizenship Hereditary

With the ancients, as with Cohnstaedt, the primary reason for not admitting aliens was that they worshipped their own ancestral, alien gods. The ancients were more religious in their thinking than the average modern. Medea, invoking her god, says:

"Ancient Goddess to whom I and my people
Make the sacrifice of black lambs and black female hounds,
Holy one, haunter of cross-roads, queen of night, Hecate,
Help me now: to remember in my mind the use of the venomous fire, the magic song,
And the sharp gems."*

That was the social development when the Romans—quite by accident—conquered city after city of the ancient world until they had it all; naturalization was almost unknown; slavery or a military ruler was the standard treatment for conquered peoples.

The Romans, however, feared that their empire would fall apart unless they found a new way to hold it together. Therefore in the year 212 A. D. the Constitutio Antoniana conferred Roman citizenship on all freemen of the empire. It was the first widespread acceptance of naturalization. Non-hereditary citizenship was a device created in order to help mankind achieve one world.

It is interesting to note that Christianity took root in the same soil in which naturalization was born. In their desire to hold their empire together the Romans sought one religion that would bind all peoples together. It was in the hour of this need that Christ was Given to man, to make Israel no longer an hereditary religion, but a missionary religion, making all believers hiers of the promise along with the Jews.

Naturalization was one of the great products of the ancient world. Without it the United States would have been impossible. The feat of moving 140,000,000 Europeans to North America in about 300 years was a miracle made possible only by centuries of laboriously teaching all of the people of Europe that the social ties of love are greater than hereditary tribal or horde ties, and that citizenship can be as well attained by naturalization as by birth.

Robinson Jeffers translated *Medea* into English in 1946, and Judith Anderson for whom he wrote it, enacted it on the stage. It is more than a translation; he has made it a work of English literature with which few plays can compare. It was recently enacted as the Greeks themselves did it, in an open air theatre, at the foot of the Washington Monument. Here, at the memorial to the father of the country built on naturalization, the old plea for the alien was performed once more. Medea says:

". . . And though I was born in far-off Asia: call that misfortune,
Not vice. The races of Asia are human too,
As the bright Greeks are. And our hearts are as brittle: if you hurt us as we cry. And we have children and love them,
As Greek do."

Modern Court Rejects Worship of Universal God

Now the Kansas Supreme Court has given us the *Cohnstaedt* decision. Here the Christian ideal of a united mankind is not pursued as persistently as it was by the Romans. Instead naturalization is used in reverse, to impede human unity.

Euripedes once more has a timely social message. We can say with the First Woman of the Chorus:

"The holy fountains flow up from the earth,
The smoke of sacrifice flows up from the earth,
The eagle and the wild swan fly up from the earth,
Righteousness also
Has flown up from the earth to the feet of God.
It is not here, but up there; peace and pity are departed;
Hatred is here; hatred is heavy, it clings to the earth.
Love blows away, hatred remains."*

*From the translation by Robinson Jeffers. Used with his permission.

Special Parole Planned for S. S. Violators

The families of CO's in prison and the religious agencies have been corresponding with NSB recently on the subject of parole.

As the law now stands, parole can only be granted after one-third of the prison sentence is served. Plans are well along, however, to grant a special parole to Selective Service violators thirty days after their sentence has begun.

In attempting a parole the objector usually has to work out a parole plan with the prison parole officer. The parole plan is submitted by the parole officer for the prison to the Chief Probation Officer for the district in which the man would live if he were released. The Chief Probation Officer makes the final report on the plan's feasibility.

A good parole plan is a sort of stereotyped thing which was originally conceived for the prisoner who came from an insecure economic or social background. It therefore has three main features—(1) it must specify exactly the place where the violator will live when he is released; (2) it must show the place where he will work, without any vagueness; (3) it must specify a parole advisor. The parole advisor is a person who will make regular reports, or who will sign regular reports made by the objector, to the Chief Probation Officer on how the parolee is doing. The parole advisor can be neither a member of the parolee's family, nor an attorney, nor an employer, nor a fellow worker. These requirements are laid down to insure impartial reports and to protect the parolee from exploitation. Whether these requirements of the plan will be dispensed with in objector cases depends on how intelligent the parole officer is in seeing that Selective Service crimes are a different type of crime, in which insecurity plays no part.

Regular Parole Stresses Family Security

It is also wise for the family and friends of the parolee to write letters to the parole officer, the Chief Probation Officer, and the parole board at the Department of Justice in Washington, telling how they would like to have the objector back home, since the desire on the part of the family to have him back would increase the likelihood that the parole will be a success. At least this is true in the ordinary criminal case, and the reasoning is also applied in CO cases. The use of personal good relations between the family and the officials to obtain a favorable result, while it would be considered unethical with a lot of Government agencies, is not only proper, but necessary, in this kind of procedure where much depends on the Government's confidence that the objector will be living with careful, affectionate people when he is released.

However, it is not especially worthwhile for the family to come to Washington unless they happen to be very close, since interviews are difficult to obtain, and all that will have any weight in the end will be the written material in the objector's folder.

A new type of parole is being worked out between Government agencies for violators of the Selective Service Act. The Selective Service Act provides in Section 10 (b) "The President is authorized . . . to prescribe eligibility, rules, and regulations governing the parole for service in the armed forces, or for any other special service established pursuant to this title, of any person convicted of a violation of any of the provisions of this title . . ."

While there is no special service for CO's set up by the Selective Service Act at present, since they are completely deferred, it is still felt by the Government agencies that CO's can be paroled under this section to individual projects of their own choosing. Very likely, so long as the CO's are deferred, these projects would be so liberal as to amount to returning the men to ordinary civilian life.

This type of parole has been delayed in its application because of the question of which branch of the Government should have final word in passing on the individual cases. NSB has been corresponding with the Government to help settle that question most favorably to the CO's. This is the most recent aspect of the work we have been doing in conjunction with Roger Baldwin.

JWs SUE BOARDS

The Jehovah's witnesses have added a new kind of CO case to the books by suing their exemption boards.

Taze Jamrick Gibson, Eldorado, Arkansas, has sued his exemption board, his appeal board, the State Director for Arkansas, the Assistant Director, and the Chief of the Legal Division for the State. He sued them civilly for money damages, either for malicious prosecution or under the Civil Rights Act, 8 USCA 47.

George D. Dodez, Orrville, Ohio, asked for $10,000 damages from his exemption board and the appeal board at Akron, Ohio.

In both cases the Jehovah's witnesses lost.

Gibson, a Jehovah's witness, registered in El Dorado, Arkansas, and asked for a IV-D under the 1940 Draft Act. He received a I-A and appealed. On appeal he was given a IV-E. He was assigned to CPS at Hill City, South Dakota.

He was prosecuted for refusal to accept his assignment, in South Dakota, and was not allowed to challenge the validity of his classification. However, the case was appealed to the Supreme Court where it was decided that Gibson had a right to challenge his classification. The Supreme Court remanded the case to the South Dakota court; but by this time hostilities had ceased, and the indictment against him was dropped.

Mr. Dodez' case had reached the Supreme Court at the same time.

Later Gibson sued his exemption board for ignoring the proof he had given it and ignoring the Selective Service Regulations. The court held however, that exemption boards like certain other public officials, are immune from civil action for damages for acts done in relation to matters committed to them by law, even though malice be present in the enforcement of the law.

The court reasoned that this was necessary in order to protect the officials from intimidation in the performance of their duties.

What Would You Do?

Answer to Problem on Page Two

While it is true that the law makes the individual's state of mind the determining factor, the doctrine and teaching of his church can be used to show what his state of mind really is, after he says he is a member of that church.

Church creed can definitely be used to show the beliefs of some one who is a member of the church; the reason for this is because the teaching of the church is a part of his individual state of mind if he shows that he is a member. The law making the state of mind of the individual the deciding factor was not intended to force those churches which have a formal creed to conform to the pattern of other religions leaving everything to individual belief.

If the man belongs to a creedless church, that is his state of mind; if he belongs to a church with a creed, that is his state of mind and the creed is material to what he believes. However, if the objector renounces the teaching of his church before the board, as in the case of a church that discourages objection, they cannot hold that teaching against him, because he has specifically stated it has nothing to do with his belief. It is only material when he indicates he is still in agreement.

Therefore, the clerk of the board was wrong when he said that a statement by the Elder on church teaching was immaterial and this should be pointed out in whatever written notice the objector makes of the incident on his appeal.